



MAGISTRATE JUDGE MICHAEL T. MASON
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Chicago, IL 60604

Courtroom 2214

Chambers 2206

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STANDING ORDER FOR SETTLEMENT CONFERENCE

This case has been set for a settlement conference before Magistrate Judge Michael T. Mason. All parties and their lead counsel are ORDERED TO APPEAR at the Dirksen Federal Building, 219 South Dearborn Street, Courtroom #2214, Chicago, IL on the date and time set forth in the attached minute order.

SETTLEMENT CONFERENCE PREPARATION

The Court believes that the parties should fully explore and consider settlement, and should do so at the earliest reasonable opportunity in the case. Even for those cases that cannot be resolved through settlement, early consideration of settlement often can result in focusing and streamlining the issues to be litigated— which can save the parties considerable time and money.

Consideration of settlement is a serious matter; it therefore deserves and requires serious and thorough preparation prior to the settlement conference. Set forth below are the procedures that the Court requires the parties to follow in preparing for the settlement conference, and the procedures that the Court typically will employ in conducting the conference. Counsel are directed to provide a copy of this Standing Order to their clients, and to discuss these procedures with them prior to the settlement conference.

- 1. PRE-SETTLEMENT CONFERENCE DEMAND AND OFFER.** Settlement conferences are more likely to be productive if, before the conference, the parties have had a written exchange of their settlement positions. Accordingly, at least fourteen (14) calendar days prior to the date of the settlement conference, plaintiff's counsel shall serve on defense counsel a letter that sets forth at least the following information: (a) a brief summary of the evidence and legal principles that plaintiff asserts will allow it to establish liability; (b) a brief explanation of why damages or other relief would appropriately be granted at trial; (c) an itemization of the damages plaintiff believes can be proven at trial, and a brief summary

of the evidence and legal principles supporting those damages; and (d) a settlement demand. At least seven (7) calendar days before the settlement conference, defendant's counsel shall serve on plaintiff's counsel a letter that sets forth at least the following information: (a) any points in plaintiff's letter with which the defendant ***agrees***; (b) any points in plaintiff's letter with which defendant ***disagrees***; and (c) a settlement offer. Each of these letters typically should be five pages or fewer. Plaintiff's counsel shall deliver copies of these letters to the Courtroom Deputy (Room 2220) by no later than three (3) calendar days before the conference. **DO NOT FILE COPIES OF THESE LETTERS IN THE CLERK'S OFFICE.** The foregoing schedule is designed to ensure that the Court and the parties have enough time to prepare for the conference, and must be followed unless the Court establishes a different schedule.

2. **ATTENDANCE OF PARTIES REQUIRED.** Unless the Court allows otherwise by separate order, ***parties with full settlement authority are required to attend the conference in person.*** This means that if a party is an individual, that individual must personally attend; if a party is a corporation or governmental entity, a representative of that corporation or governmental entity (other than counsel of record) with full settlement authority must personally attend; and if a party requires approval by an insurer to settle, then a representative of the insurer with full settlement authority must attend. "Full settlement authority" means authority to make a final and binding settlement. The Court sets aside a significant block of time for each settlement conference. The Court strongly believes that the personal presence of the parties, and their direct participation in the discussions and "give and take" that occur, will materially increase the chances of settlement. Thus, absent a showing of unusual and extenuating circumstances, the Court will not permit a client or an insurance adjuster merely to be available by telephone. In the event that extenuating circumstances arise, counsel shall contact opposing counsel and the Court's chambers immediately so that appropriate arrangements can be made. **All participants in the settlement conference should be prepared to stay until 5:00 p.m., unless the Court terminates the conference earlier.**
3. **GOOD FAITH AUTHORITY.** The Court reserves a substantial block of time for each settlement conference. The Court's time is wasted and opposing parties incur unnecessary legal fees if a party comes to the settlement conference with limited authority. A party who comes to a settlement conference without authority to settle to the full amount of the last offer or demand may be subject to sanctions if the Court determines that the limit of the party's authority reflects bad faith. If a conference must be adjourned so that a party may obtain additional authority, that party may be subject to sanctions, including, but not limited to, the opposing party's attorney's fees incurred by the need to reconvene.
4. **CONFERENCE FORMAT.** The Court generally will follow a mediation format: that is, each side will make an opening presentation to the other side, which will be followed by joint discussion with the Court and private meetings by the Court with each side. The Court expects both the lawyers and the party representatives to be fully prepared to participate in the discussions. In these discussions, the Court encourages all parties to be willing to reassess their previous positions, and to be willing to explore creative means for resolving the dispute.

5. CONFIDENTIALITY. The written demands and offers required by this Order and the settlement conference are governed by Local Rule 83.5 relating to Confidentiality of Alternative Dispute Resolution Proceedings. Statements made by any party during the settlement conference will not be admissible at trial. The Court expects the parties to address each other with courtesy and respect, but at the same time strongly encourages the parties to speak frankly and openly about their views of the case.

ANY PARTY WHO WISHES TO VARY ANY OF THE PROCEDURES SET FORTH IN THIS STANDING ORDER SHOULD MAKE AN APPROPRIATE REQUEST TO THE COURT PRIOR TO THE EXCHANGE OF SETTLEMENT LETTERS DESCRIBED ABOVE.

ENTER:

MICHAEL T. MASON
United States Magistrate Judge

Dated: October 4, 2001